



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4784

Introduced 2/18/2020, by Rep. Emanuel Chris Welch

SYNOPSIS AS INTRODUCED:

705 ILCS 405/5-815
705 ILCS 405/5-820

Amends the Juvenile Court Act of 1987. Provides that if the court adjudicates a minor as a Habitual Juvenile Offender or as a Violent Juvenile Offender, it may commit the minor to the Department of Juvenile Justice (rather than require the minor to be committed until his or her 21st birthday, without possibility of aftercare release, furlough, or non-emergency authorized absence). Deletes provision that the minor shall be entitled to earn one day of good conduct credit for each day served as reductions against the period of his or her confinement.

LRB101 18955 RLC 68414 b

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Sections 5-815 and 5-820 as follows:

6 (705 ILCS 405/5-815)

7 Sec. 5-815. Habitual Juvenile Offender.

8 (a) Definition. Any minor having been twice adjudicated a
9 delinquent minor for offenses which, had he been prosecuted as
10 an adult, would have been felonies under the laws of this
11 State, and who is thereafter adjudicated a delinquent minor for
12 a third time shall be adjudged an Habitual Juvenile Offender
13 where:

14 1. the third adjudication is for an offense occurring
15 after adjudication on the second; and

16 2. the second adjudication was for an offense occurring
17 after adjudication on the first; and

18 3. the third offense occurred after January 1, 1980;
19 and

20 4. the third offense was based upon the commission of
21 or attempted commission of the following offenses: first
22 degree murder, second degree murder or involuntary
23 manslaughter; criminal sexual assault or aggravated

1 criminal sexual assault; aggravated or heinous battery
2 involving permanent disability or disfigurement or great
3 bodily harm to the victim; burglary of a home or other
4 residence intended for use as a temporary or permanent
5 dwelling place for human beings; home invasion; robbery or
6 armed robbery; or aggravated arson.

7 Nothing in this Section shall preclude the State's Attorney
8 from seeking to prosecute a minor as an adult as an alternative
9 to prosecution as an habitual juvenile offender.

10 A continuance under supervision authorized by Section
11 5-615 of this Act shall not be permitted under this Section.

12 (b) Notice to minor. The State shall serve upon the minor
13 written notice of intention to prosecute under the provisions
14 of this Section within 5 judicial days of the filing of any
15 delinquency petition, adjudication upon which would mandate
16 the minor's disposition as an Habitual Juvenile Offender.

17 (c) Petition; service. A notice to seek adjudication as an
18 Habitual Juvenile Offender shall be filed only by the State's
19 Attorney.

20 The petition upon which such Habitual Juvenile Offender
21 notice is based shall contain the information and averments
22 required for all other delinquency petitions filed under this
23 Act and its service shall be according to the provisions of
24 this Act.

25 No prior adjudication shall be alleged in the petition.

26 (d) Trial. Trial on such petition shall be by jury unless

1 the minor demands, in open court and with advice of counsel, a
2 trial by the court without jury.

3 Except as otherwise provided herein, the provisions of this
4 Act concerning delinquency proceedings generally shall be
5 applicable to Habitual Juvenile Offender proceedings.

6 (e) Proof of prior adjudications. No evidence or other
7 disclosure of prior adjudications shall be presented to the
8 court or jury during any adjudicatory hearing provided for
9 under this Section unless otherwise permitted by the issues
10 properly raised in such hearing. In the event the minor who is
11 the subject of these proceedings elects to testify on his own
12 behalf, it shall be competent to introduce evidence, for
13 purposes of impeachment, that he has previously been
14 adjudicated a delinquent minor upon facts which, had he been
15 tried as an adult, would have resulted in his conviction of a
16 felony or of any offense that involved dishonesty or false
17 statement. Introduction of such evidence shall be according to
18 the rules and procedures applicable to the impeachment of an
19 adult defendant by prior conviction.

20 After an admission of the facts in the petition or
21 adjudication of delinquency, the State's Attorney may file with
22 the court a verified written statement signed by the State's
23 Attorney concerning any prior adjudication of an offense set
24 forth in subsection (a) of this Section which offense would
25 have been a felony or of any offense that involved dishonesty
26 or false statement had the minor been tried as an adult.

1 The court shall then cause the minor to be brought before
2 it; shall inform him of the allegations of the statement so
3 filed, and of his right to a hearing before the court on the
4 issue of such prior adjudication and of his right to counsel at
5 such hearing; and unless the minor admits such adjudication,
6 the court shall hear and determine such issue, and shall make a
7 written finding thereon.

8 A duly authenticated copy of the record of any such alleged
9 prior adjudication shall be prima facie evidence of such prior
10 adjudication or of any offense that involved dishonesty or
11 false statement.

12 Any claim that a previous adjudication offered by the
13 State's Attorney is not a former adjudication of an offense
14 which, had the minor been prosecuted as an adult, would have
15 resulted in his conviction of a felony or of any offense that
16 involved dishonesty or false statement, is waived unless duly
17 raised at the hearing on such adjudication, or unless the
18 State's Attorney's proof shows that such prior adjudication was
19 not based upon proof of what would have been a felony.

20 (f) Disposition. If the court finds that the prerequisites
21 established in subsection (a) of this Section have been proven,
22 it shall adjudicate the minor an Habitual Juvenile Offender and
23 may commit him to the Department of Juvenile Justice ~~until his~~
24 ~~21st birthday, without possibility of aftercare release,~~
25 ~~furlough, or non-emergency authorized absence. However, the~~
26 ~~minor shall be entitled to earn one day of good conduct credit~~

1 ~~for each day served as reductions against the period of his~~
2 ~~confinement. Such good conduct credits shall be earned or~~
3 ~~revoked according to the procedures applicable to the allowance~~
4 ~~and revocation of good conduct credit for adult prisoners~~
5 ~~serving determinate sentences for felonies.~~

6 ~~For purposes of determining good conduct credit,~~
7 ~~commitment as an Habitual Juvenile Offender shall be considered~~
8 ~~a determinate commitment, and the difference between the date~~
9 ~~of the commitment and the minor's 21st birthday shall be~~
10 ~~considered the determinate period of his confinement.~~

11 (Source: P.A. 98-558, eff. 1-1-14.)

12 (705 ILCS 405/5-820)

13 Sec. 5-820. Violent Juvenile Offender.

14 (a) Definition. A minor having been previously adjudicated
15 a delinquent minor for an offense which, had he or she been
16 prosecuted as an adult, would have been a Class 2 or greater
17 felony involving the use or threat of physical force or
18 violence against an individual or a Class 2 or greater felony
19 for which an element of the offense is possession or use of a
20 firearm, and who is thereafter adjudicated a delinquent minor
21 for a second time for any of those offenses shall be
22 adjudicated a Violent Juvenile Offender if:

23 (1) The second adjudication is for an offense occurring
24 after adjudication on the first; and

25 (2) The second offense occurred on or after January 1,

1 1995.

2 (b) Notice to minor. The State shall serve upon the minor
3 written notice of intention to prosecute under the provisions
4 of this Section within 5 judicial days of the filing of a
5 delinquency petition, adjudication upon which would mandate
6 the minor's disposition as a Violent Juvenile Offender.

7 (c) Petition; service. A notice to seek adjudication as a
8 Violent Juvenile Offender shall be filed only by the State's
9 Attorney.

10 The petition upon which the Violent Juvenile Offender
11 notice is based shall contain the information and averments
12 required for all other delinquency petitions filed under this
13 Act and its service shall be according to the provisions of
14 this Act.

15 No prior adjudication shall be alleged in the petition.

16 (d) Trial. Trial on the petition shall be by jury unless
17 the minor demands, in open court and with advice of counsel, a
18 trial by the court without a jury.

19 Except as otherwise provided in this Section, the
20 provisions of this Act concerning delinquency proceedings
21 generally shall be applicable to Violent Juvenile Offender
22 proceedings.

23 (e) Proof of prior adjudications. No evidence or other
24 disclosure of prior adjudications shall be presented to the
25 court or jury during an adjudicatory hearing provided for under
26 this Section unless otherwise permitted by the issues properly

1 raised in that hearing. In the event the minor who is the
2 subject of these proceedings elects to testify on his or her
3 own behalf, it shall be competent to introduce evidence, for
4 purposes of impeachment, that he or she has previously been
5 adjudicated a delinquent minor upon facts which, had the minor
6 been tried as an adult, would have resulted in the minor's
7 conviction of a felony or of any offense that involved
8 dishonesty or false statement. Introduction of such evidence
9 shall be according to the rules and procedures applicable to
10 the impeachment of an adult defendant by prior conviction.

11 After an admission of the facts in the petition or
12 adjudication of delinquency, the State's Attorney may file with
13 the court a verified written statement signed by the State's
14 Attorney concerning any prior adjudication of an offense set
15 forth in subsection (a) of this Section that would have been a
16 felony or of any offense that involved dishonesty or false
17 statement had the minor been tried as an adult.

18 The court shall then cause the minor to be brought before
19 it; shall inform the minor of the allegations of the statement
20 so filed, of his or her right to a hearing before the court on
21 the issue of the prior adjudication and of his or her right to
22 counsel at the hearing; and unless the minor admits the
23 adjudication, the court shall hear and determine the issue, and
24 shall make a written finding of the issue.

25 A duly authenticated copy of the record of any alleged
26 prior adjudication shall be prima facie evidence of the prior

1 adjudication or of any offense that involved dishonesty or
2 false statement.

3 Any claim that a previous adjudication offered by the
4 State's Attorney is not a former adjudication of an offense
5 which, had the minor been prosecuted as an adult, would have
6 resulted in his or her conviction of a Class 2 or greater
7 felony involving the use or threat of force or violence, or a
8 firearm, a felony or of any offense that involved dishonesty or
9 false statement is waived unless duly raised at the hearing on
10 the adjudication, or unless the State's Attorney's proof shows
11 that the prior adjudication was not based upon proof of what
12 would have been a felony.

13 (f) Disposition. If the court finds that the prerequisites
14 established in subsection (a) of this Section have been proven,
15 it shall adjudicate the minor a Violent Juvenile Offender and
16 may commit the minor to the Department of Juvenile Justice
17 ~~until his or her 21st birthday, without possibility of~~
18 ~~aftercare release, furlough, or non emergency authorized~~
19 ~~absence. However, the minor shall be entitled to earn one day~~
20 ~~of good conduct credit for each day served as reductions~~
21 ~~against the period of his or her confinement. The good conduct~~
22 ~~credits shall be earned or revoked according to the procedures~~
23 ~~applicable to the allowance and revocation of good conduct~~
24 ~~credit for adult prisoners serving determinate sentences for~~
25 ~~felonies.~~

26 ~~For purposes of determining good conduct credit,~~

1 ~~commitment as a Violent Juvenile Offender shall be considered a~~
2 ~~determinate commitment, and the difference between the date of~~
3 ~~the commitment and the minor's 21st birthday shall be~~
4 ~~considered the determinate period of his or her confinement.~~

5 (g) Nothing in this Section shall preclude the State's
6 Attorney from seeking to prosecute a minor as a habitual
7 juvenile offender or as an adult as an alternative to
8 prosecution as a Violent Juvenile Offender.

9 (h) A continuance under supervision authorized by Section
10 5-615 of this Act shall not be permitted under this Section.

11 (Source: P.A. 98-558, eff. 1-1-14.)